

REMARKS

I. Election/Restrictions

In response to the restriction requirement, Applicant hereby elects Group I without traverse and cancels non-elected claims 4-5 and 11-12 without prejudice.

II. Specification

Applicant has amended page 1 of the specification to include serial numbers of co-pending related applications.

III. The 35 U.S.C. §103 Rejections

Claims 1-3, 6-10, 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over O'Neal, U.S. Patent No. 6,411,685 ("O'NEAL"). Applicant respectfully traverses the rejections.

A. Overview of O'NEAL

O'NEAL discloses a unified messaging system that "permits messages of different types to be received and viewed or heard by a user having only a thin web browser without dedicated software. Additionally, the different message types may be forwarded to other recipients across the various media types." O'NEAL, col. 2, lines 39-43.

B. Claim 1

It is axiomatic that the combination of the cited references in a §103 rejection must disclose every element in the rejected claim. M.P.E.P. 2143.03. Claim 1 recites a method for optimizing traffic volume in a communications network, comprising the steps of:

- receiving a first file;
- parsing a header portion of said file to find a reference header;
- extracting an identifier of a second file in said reference header;

determining a nearest location to retrieve said second file based on said identifier; and
retrieving said second file based on said determining.

As demonstrated below, Applicant respectfully submits that O'NEAL fails to disclose or suggest multiple steps recited in claim 1. Additionally, Applicant will also show that O'NEAL is non-analogous art and should not have been cited.

1. O'NEAL Does Not Disclose or Suggest Parsing a Header Portion of a First File to Find a Reference Header

Claim 1 recites the step of parsing a header portion of a first file to find a reference header. The Examiner cited col. 1, line 10 – col. 2, line 48 of O'NEAL for allegedly disclosing this step.

Col. 1, lines 10-43 of O'NEAL illustrates a table listing related applications. Col. 1, line 44 – col. 2, line 5 of O'NEAL describes existing messaging systems which require different dedicated software or hardware at the user computer to process messages of different media types. Col. 2, lines 6-48 of O'NEAL describes the summary of the invention which is a unified messaging system that is capable of receiving different types of messages and allowing users to access and forward those messages. No where in the cited portion nor anywhere else in O'NEAL does it disclose the step of parsing a header portion of a file to find a reference header as recited in claim 1. Should the Examiner believe otherwise, Applicant respectfully requests the Examiner to cite the specific portions in the next office action.

2. O'NEAL Does Not Disclose or Suggest Extracting an Identifier of a Second File in the Reference Header

O'NEAL does not disclose or suggest the step of parsing a header of a first file to find a reference header. Therefore, logically, O'NEAL cannot disclose the step of extracting an identifier of a second file in the reference header. The Examiner cited the same portion of O'NEAL (i.e., col. 1, line 10 – col. 2, line 48) as for the previous step as allegedly disclosing this step. However, neither the cited portion of O'NEAL nor anywhere else in O'NEAL discloses or suggests this step. Should the Examiner

believe otherwise, Applicant respectfully requests the Examiner to cite the specific portions in the next office action.

In addition, the Examiner took “Official Notice” of the use of an identifier. Applicant respectfully traverses the Official Notice. The use of an identifier in the context of claim 1 (i.e., an identifier being used in a reference header of a first file to identify a second file for optimizing traffic in a communication network) is not well known at least at the time of filing of the present case. The Examiner has not provided any documentary evidence to support his position. If the Examiner does have supporting documentary evidence, Applicant requests the Examiner to provide such evidence in the next office action. If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner is requested to provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding in accordance with 37 C.F.R. 1.104(d)(2) and M.P.E.P. 2144.03C.

3. O’NEAL Does Not Disclose or Suggest Determining a Nearest Location to Retrieve the Second File Based on the Identifier

O’NEAL does not disclose or suggest the step of extracting an identifier of a second file. Therefore, logically, O’NEAL cannot disclose the step of determining a nearest location to retrieve the second file based on the identifier. The Examiner cited the same portion of O’NEAL (i.e., col. 1, line 10 – col. 2, line 48) as for the previous steps as allegedly disclosing this step. However, neither the cited portion of O’NEAL nor anywhere else in O’NEAL discloses or suggests this step. Should the Examiner believe otherwise, Applicant respectfully requests the Examiner to cite the specific portions in the next office action.

4. O’NEAL Does Not Disclose or Suggest Retrieving the Second File Based on the Determining

O’NEAL does not disclose or suggest the step of determining a nearest location to retrieve the second file based on the identifier. Therefore, logically, O’NEAL cannot disclose the step of retrieving the second file based on the determining. The Examiner cited the same portion of O’NEAL (i.e., col. 1, line 10 –

col. 2, line 48) as for the previous steps as allegedly disclosing this step. However, neither the cited portion of O'NEAL nor anywhere else in O'NEAL discloses or suggests this step. Should the Examiner believe otherwise, Applicant respectfully requests the Examiner to cite the specific portions in the next office action.

5. O'NEAL is Non-Analogous Art

“In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” M.P.E.P. 2141.01 (a).

a. O'NEAL Is Not in the Same Field of Endeavor as the Present Application

Claim 1 recites a method for optimizing traffic volume in a communications network. In contrast, O'NEAL discloses a messaging system capable of processing messages of different media types. O'NEAL, col. 2, lines 6-48. Technology relating to optimizing traffic in a communication network is in the field of network efficiency improvement. In contrast, a messaging system is in the field of digital message management. Therefore, O'NEAL's messaging system is not in the same field of endeavor as the traffic volume optimizing process recited in claim 1.

b. O'NEAL Is Not Reasonably Pertinent to the Particular Problem with which the Inventor Was Concerned

Claim 1 recites a method for optimizing traffic volume in a communications network. In contrast, O'NEAL discloses a messaging system capable of processing messages of different media types. O'NEAL, col. 2, lines 6-48. Technology relating to optimizing traffic in a communication network addresses problems about a network. In contrast, a messaging system does not address problems relating to a network but rather addresses problems relating to data management on a server (which may happen to be a part of a network). See O'NEAL, col. 2, line 8.

Therefore, O'NEAL does not address problems reasonably pertinent to the particular problems dealt with by claim 1.

Based on the foregoing, O'NEAL is non-analogous art and should not have been cited to reject claim 1 (and other pending claims).

6. Conclusion

Based on all the foregoing, Applicant respectfully submits that claim 1 is not unpatentable over O'NEAL and is in condition for allowance.

B. Claims 2-3

Claims 2-3 are dependent on claim 1. Based on the foregoing, these claims should also be in condition for allowance.

C. Claim 6

Independent claim 6 includes some similar limitations as discussed above with respect to claim 1. Thus, arguments made above with respect to claim 1 are also applicable to claim 6. Based on the foregoing, claim 6 is not unpatentable over O'NEAL and should be in condition for allowance.

D. Claim 7

Claim 7 is dependent on claim 6. Based on the foregoing with respect to claim 6, this claim should also be in condition for allowance.

E. Claim 8

Independent claim 8 includes substantially the same limitations as claim 1. Based on the foregoing arguments with respect to claim 1, claim 8 is not unpatentable over O'NEAL and should be in condition for allowance.

F. Claim 9

Claim 9 is dependent on claim 8. Based on the foregoing with respect to claim 8, this claim should be in condition for allowance.

G. Claim 13

Independent claim 13 includes substantially the same limitations as claim 6. Based on the foregoing arguments with respect to claim 6, claim 13 is not unpatentable over O'NEAL and should be in condition for allowance.

H. Claim 14

Claim 14 is dependent on claim 13. Based on the foregoing with respect to claim 13, this claim should be in condition for allowance.

IV. Examiner's Conclusion

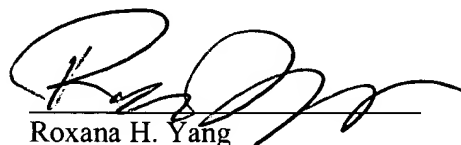
Applicant respectfully disputes and disagrees with the first two paragraphs of the Examiner's Conclusion section in the present Official Action. For example, Applicant does not concede that "the rational (sic) of the applicant's invention has been clearly anticipated by several references."

V. Conclusion

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance. Should the Examiner believe that a telephone interview would help advance the prosecution of this case, the Examiner is requested to contact the undersigned attorney.

Respectfully submitted,

By:


Roxana H. Yang
Registration No. 46,788

Law Office of Roxana H. Yang
P.O. Box 400
Los Altos, CA 94023
(650) 948-0822